

THE HONORABLE BARBARA J. ROTHSTEIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ATLANTIC SPECIALTY INSURANCE
COMPANY,

Plaintiff,

v.

BCS INSURANCE COMPANY,

Defendant.

Case No. 2:21-cv-00616-BJR

**JOINT MOTION AND ORDER TO
VACATE TRIAL DATE AND RELATED
DATES PENDING DECISION ON
PENDING MOTIONS FOR SUMMARY
JUDGMENT**

I. INTRODUCTION/RELIEF REQUESTED

Plaintiff Atlantic Specialty Insurance Company (“ASIC”) and Defendant BCS Insurance Company (“BCSI”) (collectively “Parties”) by and through their respective attorneys, bring this joint motion pursuant to LCR 10(g) and respectfully request that this Court modify its January 6, 2022 Order to vacate the December 8, 2022 bench trial and related dates pending decisions on the Parties’ pending motions for summary judgment filed on August 8, 2022 and fully briefed as of September 12, 2022.

1 II. FACTUAL AND PROCEDURAL BACKGROUND

2 In its Order of January 6, 2022, this Court set the trial date in this matter for December 8,
3 2022. Dkt. 89. Since that time, the Parties completed discovery and moved for summary
4 judgment on August 8, 2022. Those motions were fully briefed as of September 12, 2022.
5 Given that deadlines related to the December 8, 2022 trial date will begin passing imminently,
6 the Parties believe that it is in the interest of judicial economy that the trial date be vacated
7 pending decisions on the pending dispositive motions.

8 III. GOOD CAUSE IS ESTABLISHED

9
10 Fed. R. Civ. P. 16(b) provides that “a schedule shall not be modified except upon a
11 showing of good cause and by leave of the district judge. . . .” A party moving to amend a
12 schedule should show that the deadlines presented cannot reasonably be met despite the
13 diligence of the party seeking an extension. *Pfeiffer v. Eagle Mfg. Co.*, 137 F.R.D. 352, 355 (D.
14 Kan. 1991); Wright & Miller, *6A Federal Practice & Procedure*, § 1522.1, p. 230-31 (citing
15 Advisory Committee notes to 1983 Amendment to Rule 16); *ICU Med., Inc. v. Rymed Tech.,*
16 *Inc.*, 674 F. Supp. 2d 574, 577 (D. Del. 2009). Courts should grant extensions when the moving
17 party can show that it has worked diligently to position the case for trial or for disposition by
18 motion.
19

20 Here, the Parties have been diligent in moving this matter to resolution. They have
21 completed discovery and filed their motions for summary judgment on the deadline set in the
22 scheduling order. The Parties believe that the pending motions will resolve all, or nearly all, of
23 the issues remaining in the case and that preparing for and proceeding to trial without the benefit
24 of this Court’s orders on the motions for summary judgment will be inefficient and a waste of the
25 Parties’ resources and judicial resources. Should trial remain necessary after the resolution of
26

1 the motions for summary judgment, the decisions on the motions will allow the parties to narrow
2 their trial preparation, pre-trial filings, witnesses, and exhibits to only those issues not resolved
3 by summary judgment.

4 The Parties request that if the pending dispositive motions do not resolve all remaining
5 issues, that they be required to submit a joint status report within thirty (30) days of the issuance
6 of the Order on the pending dispositive motions and to participate in a status conference, if
7 requested by the Court, to reset the trial date and related dates.
8

9 **IV. CONCLUSION**

10 For the foregoing reasons, the Parties ask that the trial date and related dates be vacated.
11 A proposed Order follows.

12 Dated: September 20, 2022

13 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
14

15 By /s/Robert J. Guite
16 Robert J. Guite, WSBA No. 25753

17 INTACT U.S. COVERAGE LITIGATION GROUP

18 Sara L. Menton, admitted *Pro Hac Vice*
19 Emmitt L. DuBose III, admitted *Pro Hac Vice*

20 Attorneys for Plaintiff
21 Atlantic Specialty Insurance Company

22 Dated: September 20, 2022

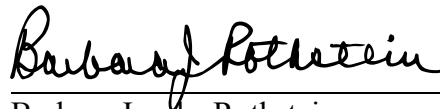
23 FROST PEARLMAN LLC

24 By s/Marc Pearlman
25 Marc Pearlman, admitted *Pro Hac Vice*
26 Attorneys for Defendant
BCS Insurance Company

ORDER

IT IS SO ORDERED. The December 8, 2022 trial date and related dates set forth in the January 6, 2022 Order (Dkt. 89) are VACATED. To the extent that the pending motions for summary judgment do not resolve all remaining issues in this case, the Parties shall submit a further joint status report within **10 days** of the Court's Order on the pending motions for summary judgment.

DATED this 26th day of October, 2022.


Barbara Jacobs Rothstein
U.S. District Court Judge

Presented by:

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By /s/ Robert J. Guite
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